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DISTRICT OF CONNECTICUT

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23 February 2009

**Statement in Opposition to the Appointment of
the Honorable Francis J. Foley, III as a Senior Judge**

Good afternoon Representative Lawlor, Senator McDonald and members of the Committee.

I am here in opposition to the appointment of Judge Foley.

Judge Foley suspended my right to practice law in Connecticut in July 2005. I remain suspended today while that suspension order is on appeal before the Connecticut Appellate Court. There is no automatic stay pending appeal on summary suspension orders in Connecticut and I have been refused a stay by both the Superior Court and the Appellate Court. Despite Judge Foley's suspension order not yet being final, I have also been suspended in New York and the District of Columbia as reciprocal discipline based upon his order. [R.20-23, 40*]

My experience with Judge Foley relates to the period when he was the Administrative Judge for the Windham Judicial District. During that time period, I was a defendant in a minor speeding case in the Danielson court. The case had been closed out by the Clerk and my driving privileges suspended after she had

* This statement provides only a short synopsis of the events. A more details discussion is contained in the Response to Statement of Bar Counsel which was filed in the District of Columbia's Board on Professional Responsibility and is being provided to the Committee today. The "R" references provide specific supporting page references to that document. In turn, the Response provides detailed cross references to the original filings and transcripts in the Connecticut proceeding as contained in the Appendix to the Response which is also being provided to the Committee.

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sent the notices to an invalid address and had ignored my correspondence. I asked the Court to reinstate the case and waive the reinstatement fee, which was granted by Judge Riley, and to order the Clerk to issue a letter documenting the error so that the Department of Motor Vehicles could also waive their reinstatement fee. The State's Attorney opposed this latter motion and asked that a hearing be held so that she could subpoena the Clerk to explain her procedure to the court. Judge Riley granted the State's request over my objections that a hearing was unnecessary and set a date for the hearing. [R.1-6]

Claiming the inherent power to do so despite not being the assigned judge and despite my never having appeared before him, Judge Foley issued an Order to Show Cause ordering me to appear before him at the time previously reserved by Judge Riley for the State's evidentiary hearing. By doing so, he effectively countermanded the order of a fellow Superior Court judge that a hearing be held. Subsequently, Judge Foley also denied the motion by which I had sought to have the Clerk issue a letter documenting the errors. This was done summarily and out of the presence of the State's Attorney. [R.7, 10-13, 26-29]

Judge Foley proceeded to hold three hearings at which he managed to violate every single one of my procedural due process rights. He pressured me to plea bargain the criminal charge. He denied me prior notice of the disciplinary allegations. He provided an inaccurate statement of the potential sanctions. He denied me the assistance of counsel. He forced me to take the stand and testify within the context of an on-going criminal proceeding in which I was the defendant. He denied me the opportunity to present testimony and to test the evidence against me. And he cited each new filing that I made in an attempt to defend myself as further proof of my guilt. [R.9-20, 29-30, 43-63]

Ultimately, Judge Foley held that I had violated Rules 1.1 (competence) and 4.4 (respect for the rights of others) of the Rules of Professional Conduct despite both rules, by their terms, only applying where an attorney is representing a client. I was obviously acting pro se in my own criminal case. Notably, I was punished by Judge Foley for appearing pro se despite the Federal Sixth Amendment and the Conn. Const. Art. I, § 8 guaranteeing the right of an accused to act pro se, no matter how incompetently. Judge Foley also held that I had violated Rule 3.5(3) (conduct intended to disrupt a tribunal) despite none of the events having taken place in or anywhere near a tribunal. Finally, Judge Foley held that I had violated Rule 8.4(4) (conduct that is prejudicial to the administration of justice) despite there having been no precedent justifying such a conclusion. Indeed, the judge's

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opinion was inaccurate as to every single factual statement and made no attempt whatsoever to explain how the alleged facts violated any of the four ethical rules. The opinion failed to cite to even one single legal precedent. [R.76-95]

Judge Foley was motivated by a desire to prevent the exposure of his maladministration. The judge's posting as an Administrative Judge was drawing to a close and he hoped to be posted to his favored position handling juvenile matters. These events took place during the Sullivan administration when "people lived in fear that if they made a misstep, they were going to be punished." Judges secretly referred to this as being sent to Siberia. By intervening, Judge Foley prevented the failures within the Clerk's office from being publicly exposed and becoming an embarrassment to his administration and to the judiciary in general. He succeeded in obtaining his favored posting. [R.29-41]

Finally, by pursuing his own personal interests rather than allowing the hearing ordered by Judge Riley to go forward, Judge Foley also prevented the discovery and correction of computer errors within the Department of Motor Vehicles which I subsequently uncovered through independent investigation. These errors have resulted in every single notice of suspension issued by that department to drivers with overseas addresses having been mailed to a fictitious address so that none of these drivers received notice of their suspensions despite the department certifying that they had. Each of these drivers continues to be at risk for being stopped and arrested in Connecticut for driving while their driving privileges are suspended. [R.89-91]

At Judge Foley's initial 1993 appointment hearing, a number of Committee members voiced concerns that Judge Foley lacked the proper temperament to be a Superior Court judge. Members of the Committee used words such as "arrogance", "officious", "aggressive", "offensive", "stereotyping" and "self-serving". A number of members of the public, including an experienced attorney, also voiced similar concerns in opposition to his appointment. My own experience demonstrates that those concerns were well founded. [R.41-42, 95]

Respectfully submitted,

Stephen J. Williams

CONNECTICUT LEGISLATIVE JOINT COMMITTEE ON THE JUDICIARY

***Opposition of Stephen J. Williams
to the Appointment of the
Honorable Francis J. Foley, III
to be a Senior Judge***

A	Statement in Opposition to the Appointment of the Honorable Francis J. Foley, III dated 23 February 2009
B	Letter to Senator McDonald and Representative Lawlor dated 25 February 2008
C	Memorandum of Decision, Order to Show Cause re: Attorney Discipline dated 18 July 2005
D	Response to Statement of the Bar Counsel dated 27 June 2007
E	Appendix to Response to Statement of Bar Counsel dated 27 June 2007
F	Judiciary Committee Hearing Transcript dated 30 April 1993

Exhibits
on
File